

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WISCONSIN**

ROCKWELL AUTOMATION, INC. and
ROCKWELL AUTOMATION
TECHNOLOGIES, INC.

Plaintiffs,

v.

WAGO CORPORATION and WAGO
KONTAKTTECHNIK GMBH & CO. KG

Defendants.

Case No. 3:10CV718-WMC

The Hon. William M. Conley

**WAGO’S MOTION PURSUANT TO RULE 12(h)(3)
TO DISMISS ROCKWELL AUTOMATION, INC. FOR LACK OF STANDING**

Defendants WAGO Corporation and WAGO Kontakttechnik GmbH & Co. KG respectfully move this Court to dismiss the claims of Rockwell Automation, Inc. (“Automation”) pursuant to Federal Rule of Civil Procedure 12(h)(3) (“Rule 12(h)(3)”) because Automation lacks standing before this Court. At trial, Automation presented no evidence whatsoever that it has any interest in U.S. Patent No. 6,801,813 (“the ‘813 patent”). In particular, Automation failed to present any evidence that it is the licensee to the ‘813 patent as alleged in the Complaint. Therefore, Automation lacks standing under Article III of the United States Constitution to sue for infringement of the ‘813 patent and must be dismissed pursuant to Rule 12(h)(3).

Dated: October 25 2012

Respectfully submitted,

/s/ Marshall J. Schmitt

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Certificate Of Service

I HEREBY CERTIFY that on this 25th day of October, 2012, a copy of the foregoing document was filed electronically with the Clerk of the Court using the CM/ECF system and was served on the following counsel as indicated below.

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